

DEFICIT REDUCTION ACT

HOUSE-SENATE CONFERENCE AGREEMENT

PREVENTING ASSET TRANSFERS

Real Asset Transfer Rules: under current law, Medicaid asset transfer rules are easily circumvented—often at the behest of adult children eager to pass the cost of their parents healthcare on to taxpayers. The reforms in the Deficit Reduction Act will make it more difficult for these transfers to occur, and will allow more Medicaid resources to go to those who are in genuine need.

- Current law allows seniors to transfer assets to qualify for Medicaid with virtually no consequences.
- For a senior willing to risk a delay in ineligibility, up to half of their assets (no matter how substantial) can always be sheltered even the day before applying for Medicaid.
- The interaction between the current look-back period and the process for tolling penalty periods for improper transfers results in nearly all potential penalties expiring before the transferor ever applies for Medicaid.
- The Deficit Reduction Act increases the time when Medicaid can look for improper transfers from 3 to 5 years and modifies the penalty rule for improper transfers so it begins when an individual first applies to receive care, rather than at the time the asset was transferred.
- The conference agreement also strengthens Medicaid asset transfer policies by requiring states to “round down” partial month penalty periods; aggregate small transfers for purposes of determining penalty periods; and make additional categories of assets subject to a potential penalty for improper transfer including promissory notes, loans or mortgages, and life estate interest in another individual’s home.
- Seniors making transfers for a non-Medicaid purpose will not face a penalty nor have their access to Medicaid affected by these reforms.
- Even if the senior cannot document the non-Medicaid purpose for the transfer, for whatever reason, the conference agreement codifies existing hardship procedure so no one will be denied vital care.
- Thus, a grandmother who helps with a grandchild’s tuition, for example, will not be penalized by the Conference policy. She simply cannot be denied care, even when there is no record of the non-Medicaid purpose for the transfer, upon showing of a demonstrated hardship.